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>> have limited funds to go hire the expensive experts, and who have limited time to go figure out what they're supposed to do," Vaughan said. "So, they really don't make an adequate record to overcome the really difficult predisposition that a lot of courts have negative to polygraph. There are examples of cases out there in which people have taken the time and made the effort to produce that kind of record, and those are the cases that you are more successful. Now, more often than not, that doesn't even get it done. Because, unless there is a stipulation in general, polygraph evidence is not typically admitted. While there are some inroads being made along the edges, for example, we are seeing more admissibility in the context of post-conviction use."

'SOMETHING TO FOLLOW UP ON'

"As an investigative tool, it's great, because it gets people talking," Leveridge said of the polygraph.

There are two categories of tests, Shaw said, recognition tests and deception tests. A deception test is one in which the examiner is looking for an area where a person may be withholding information. A recognition test is where the examiner is looking at whether or not someone has knowledge of a situation. Both types of tests can be useful to law enforcement as they are conducting their investigations.

In the past 10 years, the concealed information test — a recognition test — has become more popular with investigators who are becoming more familiar with its results, Beck said. The CIT also is widely known as the guilty knowledge test.

"CIT is one of the most well researched, most valid techniques we have," Shaw agreed. "It performs well, it has psychological theory behind it that seems to be well understood by a lot of people — laymen and professionals — and it has a good foundation."

Shaw used an example of a home burglary to explain how CIT could be a helpful tool for an investigator. An officer may have a suspect he or she believed was the burglar, and, during the interrogation, suggested that person committed the crime and the suspect denies all knowledge of the case facts.

"You could surmise that, if they are innocent, they would not be able to identify the house, they don't know how the house was broken into or any of the items missing from the house," Shaw said. "So, at that point, that's what you would be testing for. Their physiological responses demonstrate a greater response to something the brain has a memory of. If you were the innocent person and you really didn't have any idea, they would all seem plausible."

One of the difficulties of using the CIT test, though, is that using a polygraph

exam tends to occur on the back end of an investigation, Shaw said.

"The investigators do all the work, they go through all the investigation, they talk to the media, and by the time it gets to the point of doing the polygraph, all the case facts have been leaked," she said. "At that point, you don't have a lot to work with for the CIT, because everybody is already tainted."

"Most agencies who are successful in using the CIT, it's because they have a good relationship in working with the polygraph investigators, and a lot of times those examiners will even be called out to the scene to witness what's there," Shaw continued. "There's been an education with investigators on the front end [not to release details]."

But, how do you use a polygraph as an investigative tool and not admit it as evidence or write it up in case notes?

"What will happen most of the time is, instead of bringing up the polygraph test, they will talk about the interview, talk about the knowledge that the examinee had or what the examinee admitted to," Shaw said. "So, it's more about the admissions as opposed to the actual test process."

Someday, however, polygraph proponents hope that won't be the case — that the polygraph will be more widely accepted as reliable scientific evidence, and will be admitted in court without sly stipulations or fearful omission.

"Polygraph is a search for truth," Vaughan said. "We lawyers and the courts, we think that [the courtroom] is our own little kingdom that we have created for ourselves. That the art of cross examination is what gets to the truth. So, we are unwilling to concede that science might provide another answer. I think there is an inherent reluctance to embrace polygraph. That's one of the issues, there are a lot of other issues with just the unfortunate situation that was considered so early on with Frye case, when there really wasn't evidence to support it. That sort of created the rut in the road that is hard to pull the tire out of."

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